

An  
Coimisiún  
Pleanála

Commission Order  
ACP-323489-25

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**Planning and Development Act 2000, as amended**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F24A/1125E**

**Appeal** by Rathbeale Developments Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 29<sup>th</sup> day of July 2025, by Fingal County Council refuse permission for the proposed development.

**Proposed Development:** Planning permission is sought for the (i) demolition of vacant/derelict single-storey shed; (ii) construction of a residential development of 36 number apartments (16 number one bedroom and 20 number two-bedroom) within two number apartment blocks (Block 1 of four-storey height, with set-back fifth floor level and roof terrace, and containing 27 number apartments and Block 2 of three-storey height and containing nine number apartments); (iii) all apartments will have direct access to an area of private amenity space, in the form of a garden/balcony and will have shared access to 322 square metres of external communal amenity space at ground/roof terrace levels and bin store/bicycle stores at ground floor level; (iv) provision of 14 number vehicular parking spaces (inclusive of one number accessible spaces) and two number motorcycle parking spaces at ground level accessible via Watery Lane; and (v) all ancillary works including tree removal/planting, landscaping, boundary treatments, visitor bicycle parking,

SuDS drainage and all site services, site infrastructure and associated site development works necessary to facilitate the development, at lands at the junction of Rathbeale Road and Watery Lane, Swords, County Dublin.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

Having regard to:

- (a) the policies, objectives and provisions of the Fingal County Development Plan 2023-2029, including to the 'RS Existing Residential' land use zoning objective for the area, which seeks to provide for residential development and protect and improve residential amenity,
- (b) the relevant provisions of the Sustainable Residential Development and Compact Settlements 2024 and the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities 2023,
- (c) the nature, scale, form, height, layout, and design of the proposed apartment development,
- (d) the topography and pattern of development in the area,

it is considered that the proposed development, as revised at appeal stage would be an appropriate form of development, would align with the provisions of the Fingal County Development Plan 2023-2029 including the RS Residential zoning, and the provisions of relevant national guidelines, and would not impact unduly on residential or visual amenities, character of the

area, road traffic conditions, or the local environment. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

**Appropriate Assessment: Stage 1:**

The Commission considered the documents submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on designated European sites. The Commission agreed with the screening assessment and conclusion carried out in the Inspector's Report that Malahide Estuary Special Protection Area (Site Code 004025) and Malahide Estuary Special Area of Conservation (Site Code 000205) are the only European Sites in respect of which the proposed development has the potential to have a significant effect, in view of the Conservation Objectives for these sites' and that Stage 2 Appropriate Assessment is, therefore, required.

**Appropriate Assessment: Stage 2:**

The Commission considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on Malahide Estuary Special Protection Area (Site Code 004025) and Malahide Estuary Special Area of Conservation (Site Code 000205), in view of these sites Conservation Objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Commission considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,

- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Commission accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Sites. In overall conclusion, the Commission were satisfied that the proposed development would not adversely affect the integrity of the European Sites, in view of the site's Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

## Conditions

1. (a) The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 6<sup>th</sup> day of June 2025, and as further revised by plans and particulars received by An Coimisiún Pleanála on the 25<sup>th</sup> day of August 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars.

- (b) For the avoidance of doubt, the development hereby permitted is for revised proposals received by An Coimisiún Pleanála on the 25<sup>th</sup> day of August 2025, referred to as Option A and shall be amended by repurposing apartment 0.04 for use as a communal room for residents. A full set of building plans, elevations and sections of the development shall be submitted to the planning authority as a record for the public file.

**Reason:** In the interest of clarity.

2. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, revised floor plans and elevations to demonstrate:
- (a) the appropriate provision of internal storage, and the appropriate accessibility from internal living areas to private amenity spaces, for each apartment, in line with relevant provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2023,
- (b) the inclusions of visual and acoustic screening along the rooftop boundaries of the communal amenity space on Block 1.

**Reason:** In the interests of residential amenity.

3. Building noise insulation shall be provided to an appropriate standard having regard to the location of the site within Dublin Airport Noise Zone D.

**Reason:** In the interest of residential amenity and to ensure compliance with Objective DMSO105 of the Fingal Development Plan 2023-2029.

4. Details of the materials, colours and textures of all the external finishes to the proposed structures/buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

5. A revised site layout plan shall be submitted for the written agreement of the planning authority demonstrating appropriate provision of play facilities to serve the development.

**Reason:** In the interest of residential amenity.

6. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, plan, section and elevation drawings showing design details for the interface of the development with Rathbeale Road, to include details of finished levels, materials, boundary treatments, construction, planting and landscaping.

**Reason:** In the interests of sustainable transport and orderly development.

7. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and surface water management.

8. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/or wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

9. The mitigation measures contained in the submitted Ecological Impact Assessment (Section 5.0) prepared by ASH Ecology and Environmental and submitted to the planning authority on the 12<sup>th</sup> day of December 2024, shall be fully implemented.

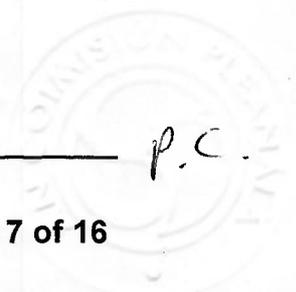
**Reason:** To protect the local biodiversity and habitats.

10. The mitigation measures contained in the submitted Bat Survey and Report (Sections 4.0 and 5.0) prepared by ASH Ecology and Environmental and submitted to the planning authority on the 12<sup>th</sup> day of December 2024, shall be fully implemented.

**Reason:** To protect local wildlife.

11. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be fully implemented.

**Reason:** To protect the integrity of European Sites.



12. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

**Reason:** In the interest of amenity and public safety.

13. Prior to commencement of works, the developer shall submit to, and agree in writing with, the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of public safety and amenity.

14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste, asbestos waste, and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of proper planning and sustainable development.

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained, and waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

16. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development following consultation with the National Monument Service (NMS). Prior to the commencement of such works the archaeologist shall consult with and forward to the NMS a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the NMS, regarding appropriate mitigation incl. preservation in-situ/excavation. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified

by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

**Reason:** To ensure the continued preservation, either in situ or by record, of places, caves, sites, features or other objects of archaeological interest.

17. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
  - (i) Existing trees and hedgerows, specifying which are proposed for retention as features of the site landscaping.
  - (ii) The measures to be put in place for the protection of landscape features during the construction period.
  - (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch,

willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.

- (iv) Details of screen planting which shall not include cupressocyparis x leylandii.
  - (v) Details of roadside/street planting which shall not include prunus species.
  - (vi) Hard landscaping works, specifying surfacing materials, furniture [play equipment] and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation, including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

18. Proposals for an estate/street name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility, and to ensure the use of locally appropriate placenames for new residential areas.

19. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

20. The management and maintenance of the proposed development, following its completion, shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development or parts of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

22. The developer shall pay to the planning authority a financial contribution as a contribution lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any indexation provisions of the Scheme at the time of payment.

**Reason:** It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

The Commission noted the Inspector considered the development as proposed would materially contravene the development plan, specifically in respect of Objectives SPQHO34, SPQHO42 and SPQHO43 and Section 14.5.1 in relation to character (Section 8.3.31 of the Inspector's report). For clarity, the Commission noted that whilst the planning authority refused permission, partly on the basis that the development would be contrary to SPQHO42 of the Fingal Development Plan 2023-2029, which seeks to protect the character of existing residential areas that are subject to infill development, the planning authority decision did not state that the proposed development would materially contravene the Development Plan in this regard (planning authority Decision Reason number one refers). The Commission did not share the Inspector's view that the development would materially contravene the development plan with respect to Objectives SPQHO34, SPQHO42 and SPQHO43 and Section 14.5.1 in relation to character, having regard to the amended scheme (Option A) of 31 apartments submitted to the

planning authority by way of further information. The Commission was satisfied that the proposed development (Option A) strikes an appropriate balance between achieving higher density on an underutilised site and protecting the character of the area. The Commission accepted the scheme as amended at further information stage and further minor amendments at appeal stage, subject to a condition requiring repurposing apartment 0.04 to function as a communal space, as offered by the applicant at appeal stage, and was satisfied that no material contravention of the development plan arises.

Separately, the Commission noted planning authority's refusal reason number two, which sets out that a material contravention of the plan arises, specifically of 'RS' zoning objective on the basis of the level differences across the site and within the building, inadequate setback from the Rathbeale Road, inadequate storage provision and accessibility to private amenity space, would fail to provide a satisfactory standard of amenity for future residents, would be contrary to the 'Sustainable Urban Housing: Design Standards for New Apartments' (2023) which were issued under Section 28 of the Planning and Development Act 2000, as amended. In considering the revisions submitted at further information stage, Option A refers, the Commission was satisfied that the matters of design raised in this refusal reason number two does not have sufficient weight to result in a material contravention of the 'RS' zoning objective and the Commission differed with both the planning authority and the inspector in this regard. Furthermore, the development broadly complies with and in some cases exceeds the development management standards of the Fingal Development Plan 2023-2029 and national guidance on apartments.

The Commission concluded that the development is supported by the 'RS' zoning category and that no material contravention of the development plan arises. Accordingly, the Commission did not invoke Section 37(2)(b) of the Planning and Development Act 2000, as amended. In overall conclusion on this matter, while the Commission did not agree that a material contravention of the plan on the basis of zoning arises in respect of the details submitted to the planning authority, the Commission noted and agreed with the inspector that the proposals submitted at appeal stage were acceptable.

*Patricia Calleary*  
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**Patricia Calleary**

**Planning Commissioner of An Coimisiún  
Pleanála duly authorised to authenticate  
the seal of the Commission.**



Dated this 23 day of December 2025